IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGEMENT NO.848 OF 2000
IN
SUMMARY SUIT NO.1800 OF 2000

M/s.Kalyanji Velji Vishrani .. Plaintiff

Vs.

M/s.Aminex Holding and
Investment and Ors. .. Defendants

Mr.T.N.Tripathi for the plaintiff

Mr.Revati Rajput i/b Lalit Jain for the defendants

CORAM : S.U.KAMDAR, J
DATED : 31ST AUGUST, 2005

P.C.:

1. The present suit is filed on a claim for dishonoured cheque of Rs.3.0 lacs. In para 8 of the said suit it has been mentioned that there was a complaint filed u.s.138 of the Negotiable Instruments Act before the Metropolitan Magistrate, 11th Court, Kurla at Mumbai. It is an admitted position that the said complaint has been compromised by consent terms dt.15.1.03. In para 2 of the said Consent Terms it is mentioned as under:

> It is agreed between the parties that accused will make a payment of Rs.3,00,000/- (Rs. Three Lakhs only) which is a subject matter of this complaint. The said payment will be towards the full and final settlement of the above case. The accused will make 12 Instalments of Rs.25,000/- in full and final settlement of the claim. The first instalment of Rs.25,000/- will be paid on 15.1.2003. The second and subsequent monthly instalment of Rs.25,000/- will be paid on or before 25th of every month i.e. 25.2.2003 and thereafter subsequent following months. The last and final instalment will be on or before 25.12.2003.

2. The plaintiffs admit that the amount covered under the said Consent Terms has been received. However, he contends that he is entitled to interest in the present proceedings. In my opinion, in view of the para 2 of the consent terms wherein the amount is accepted in equal instalment of Rs.25,000/- each in full and final settlement of the claim, Summons for Judgment does not survive. The same is dismissed as infructuous.